

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

THOMAS DONNELLY, III, an Individual,	:	
	:	
Plaintiff,	:	CASE NO.: 2:22-cv-377
	:	
v.	:	
	:	
GENERAL ELECTRIC COMPANY, a foreign entity; and JOENIC STEEL, LLC, a foreign entity.	:	
	:	
Defendants.	:	Electronically Filed
	:	
	:	
	:	TRIAL BY JURY OF TWELVE DEMANDED
	:	

DEFENDANTS' PETITION FOR REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant, General Electric Company (hereinafter "Defendant GE"), by and through its counsel, Marshall Dennehey Warner Coleman & Goggin, and Joseph V. Lesinski, Esquire, and hereby files this Petition for Removal and removes to the United States District Court for the Western District of Pennsylvania the state court action described below:

1. This action arising from an incident that allegedly occurred on September 24, 2020, in which the Plaintiff, Thomas Donnelly, III (hereinafter "Plaintiff"), alleges that he was injured while assisting in a lift of an expansion joint while working as a "Boilermaker Journeyman" for Kiewit Power Constructors at the Hilltop Energy Center.

2. On or about January 3, 2022, Plaintiff commenced a civil action and filed his Complaint in the Court of Common Pleas of Greene County, Pennsylvania at Docket No. AD-1-2022. *See* Plaintiff's Complaint, a true and correct copy attached hereto as Exhibit "A".

3. In his Complaint, Plaintiff raises Negligence (Counts I and V), Strict Liability/Consumer Expectation (Counts II and VI), Strict Liability/Risk Utility (Counts III and VII), and Breach of Warranty (Counts IV and VIII) claims against Defendant GE and Defendant Joenic Steel, LLC. *See Id.*

4. Service of the Complaint was completed upon Defendant GE on February 8, 2022, when its counsel accepted service of the Complaint on its behalf. *See* Acceptance of Service, a true and correct copy attached hereto as Exhibit "B".

5. To date, the following pleadings have been filed in this action with the Court of Common Pleas of Greene County, Pennsylvania, at Docket No. AD-1-2022:

- (a) Complaint;
- (b) Proof of Service;
- (c) Praecipe for Appearance for Defendant GE;
- (d) Praecipe for Appearance for Defendant Joenic Steel, LLC;
- (e) Acceptance of Service;
- (f) Consent Motion to Enter Stipulation and Amend Caption; and
- (g) Order of Court, dated February 23, 2022.

See Court of of Common Pleas of Greene County, Pennsylvania, Docket Report, a true and correct copy attached hereto as Exhibit "C".

6. True and correct copies of the remaining court papers listed above, excluding the Complaint, which is attached hereto as Exhibit “A”, and the Acceptance of Service, which is attached hereto as Exhibit “B”, are collectively attached hereto as Exhibit “D”.

JURISDICTION

7. This action is one over which this Honorable Court has original jurisdiction pursuant to the provisions of 28 U.S.C. § 1332.

8. Complete diversity of citizenship exists between the parties:

(a) It is the understanding of Defendant GE that, based on the averments in the Complaint, Plaintiff is a citizen of the Commonwealth of Pennsylvania. *See* Exhibit “A” at ¶ 1.

(b) Defendant GE is and was at the time of the commencement of this action formed under the laws of the State of New York, with its principal place of business located in Schenectady, New York and executive offices in Boston, Massachusetts.

(c) It is the understanding of Defendant GE that Defendant Joenic Steel, LLC is a foreign entity with a principal place of business located in Lees Summit, Missouri.

9. The amount in controversy meets or exceeds the sum or value of \$75,000, exclusive of interest and costs.

10. Specifically, in the Complaint, Plaintiff alleges that his damages are in excess of the jurisdictional limits of Greene County, Pennsylvania, which is \$50,000.

11. Additionally, Plaintiff has asserted that he is entitled to compensatory damages for alleged “severe and disabling” bodily injuries including the following: pain and discomfort to his

thoracic spine; injury to his thoracic spine, including fracture; pain and discomfort to his left ankle; injury to his left ankle, including an open reduction and internal fixation surgery; pain and discomfort to his right clavicle; injury to his right clavicle, including fracture; pain and discomfort to his ribs; injury to his ribs, including fracture; sleep deprivation; and emotional distress. *See* Exhibit “A” at ¶¶ 13, 27. Plaintiff also claimed damages including the following: medical expenses for services and supplies; loss of past, present, and future earnings; impairment of general health, strength, and vitality; past, present, and future pain and suffering; disfigurement; reduction in ability to perform routine functions of daily living; and deprivation of ability to enjoy ordinary pleasures of life. *See Id.* at ¶ 28.

12. Thus, the amount in controversy exclusive of interest and costs meets or exceeds the jurisdictional requirements for diversity jurisdiction.

13. This civil action is therefore one over which this Honorable Court has original jurisdiction pursuant to 28 U.S.C. § 1332 and which may be removed to this Honorable Court by Defendants pursuant to 28 U.S.C. §1441.

TIMELINESS

14. Defendant GE was properly served with the Complaint on February 8, 2022, pursuant to its counsel’s acceptance of service.

15. This Petition for Removal was filed within thirty (30) days of the date of the Acceptance of Service.

16. Thus, this Petition for Removal is filed timely under 28 U.S.C. §1446(b)(1).

DEFENDANTS' CONSENT TO REMOVAL

17. Defendant Joenic Steel, LLC consents to the removal of this action in compliance with 28 U.S.C. §1446(b)(2)(A). *See* Consent to Removal by Joenic Steel, LLC, a true and correct copy attached hereto as Exhibit "E".

18. Accordingly, as evident in the attached Consent to Removal, all Defendants in the above-captioned matter clearly, expressly, and unambiguously consent to and join in the removal of this matter to this Honorable Court.

VENUE AND OTHER MATTERS

19. The Court of Common Pleas of Greene County, Pennsylvania is located within the jurisdiction of the United States District Court for the Western District of Pennsylvania. *See* 28 U.S.C. §118(c).

20. Accordingly, this Honorable Court is embracing the place where such action is pending and venue is proper. *See* 28 U.S.C. §§ 118(c), 1441(a).

21. Promptly after filing this Petition for Removal, Defendant GE will provide written notice of this Petition for Removal to all counsel and parties and will file a written notice with the Court of Common Pleas of Greene County, Pennsylvania, as required by 28 U.S.C. §1446(d). *See* Notice of Filing of Petition for Removal, a true and correct copy attached hereto as Exhibit "F".

WHEREFORE, Defendant, General Electric Company, hereby removes to this Honorable Court the above-captioned action, now pending in the Court of Common Pleas of Greene County, Pennsylvania, and requests that this action be placed on the Pittsburgh docket for this Honorable Court for further proceedings as though this action had originally been instituted in this Honorable Court.

TRIAL BY JURY OF TWELVE DEMANDED

Respectfully submitted,

DATE: 03/03/2022

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

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*Counsel for Defendant, General Electric
Company*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PETITION FOR REMOVAL** has been served upon Counsel on this 3rd day of March, 2022, via email, addressed as follows:

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